

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ELM STREET  
WATERFRONT, LP from the decision of the Board of  
Equalization of Bonner County for the tax year 2006.

) APPEAL NO. 06-A-2116  
) FINAL DECISION  
) AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

NOTICE OF APPEAL was filed August 1, 2006 by Appellant. The appeal followed a timely protest to the Board of Equalization regarding the valuation for taxing purposes of property described as Parcel No. RPS02670010020A. On appeal, Dan Tonnemacher represented Appellant and Assessor Jerry Clemons represented Bonner County. In order to timely advance the appeal, the Board of Tax Appeals (Board) ordered this appeal be heard on the written record of evidence and argument presented. The Board subsequently ordered all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

**The issue on appeal is the market value of a residential parcel.**

**The decision of the Bonner Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$238,119, and the improvements' value is \$639,093, totaling \$877,212. Appellant requests the land value be reduced to \$100,000, and the improvements' value be reduced to \$300,000, totaling \$400,000.

According to the Assessor, subject is a .415 acre parcel improved with a residence located in Sandpoint, Idaho, with an unobstructed view of Lake Pend Oreille.

To support the assessed value of subject the Assessor referenced three 2005 vacant land sales without views.

Parcel Number	Sale Date	Sale Price	Lot Size	Proximity
SUBJECT	Assessed Value	\$238,119	.415 acres	
RPS00000281001 A	4/05	\$487,000	1.410 acres	.25 miles NW
RPD00000283340 A	3/05	\$215,000	.934 acres	.75 miles NW
RPD00000216372 A	9/05	\$ 83,000	.850 acres	.50 miles N

The Assessor explained the time adjusted average 2005 price per square foot of residences similar to subject was \$147.41. The time adjusted median price per square foot was \$142.70. In comparison, the subject improvements were assessed for \$138.63 per square foot of finished living area. Based on this information, the Assessor opined the subject property was valued fairly.

Appellant submitted two fee appraisals on subject property, one dated October 6, 2004 with an estimated market value of \$400,000 and a later one dated January 24, 2005 with an estimated market value for subject of \$470,000.

Appellant maintained the sale of a neighboring property at 1104 Elm Street was the best evidence of Market value. This sale took place in May of 2004 for \$390,000.

Appellant pointed out that three vacant land sales were submitted by the Assessor to support the assessed value of the subject. No improved property sales were submitted.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

The Assessor has a statutory requirement to value property. The County valuation program to be carried on by the Assessor is described in Idaho Code § 63-314 as follows:

(1) It shall be the duty of the county assessor of each county in the state to conduct and carry out a continuing program of valuation of all taxable properties under his jurisdiction pursuant to such rules as the state tax commission may prescribe, to the end that all parcels of property under the assessor's jurisdiction are assessed at current market value. In order to promote uniform assessment of property in the state of Idaho, taxable property shall be appraised or indexed annually to reflect current market value. In order to achieve this goal, all taxable property in a county shall be appraised at least once every five (5) years, except as provided in subsection (6).

Idaho Code § 63-511(4) requires a preponderance of the evidence to sustain the burden of proof:

In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. A preponderance of the evidence shall suffice to sustain the burden of proof.

We find the Respondent's sales information was limited to vacant land sales. Some degree of improved sales analysis was utilized to arrive at the average and median price per square foot of residential improvements. However, the associated information was limited.

Appellant provided two fee appraisals for the Board's consideration. The 2004 appraisal is quite dated, considering the January 1, 2006 lien date pertinent to the assessment under appeal. The second appraisal estimated the market value of subject at \$470,000 as of January 24, 2005.

Under these circumstances, we find second fee appraisal of subject property to be the best indicator of market value. Therefore the Board modifies the decision of the Bonner County Board of Equalization.

## FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a market value of \$470,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 27th day of April 2007.